

## UNITED STATES DISTRICT COURT

WESTERN

DISTRICT OF

PENNSYLVANIA

UNITED STATES

## EXHIBIT AND WITNESS LIST

V.

MICHAEL THOMAS JOYCE

Case Number: 07-31 ERIE

PRESIDING JUDGE Maurice B. Cohill, Jr.					PLAINTIFF'S ATTORNEY Christian Trabold & Christine Sanner	DEFENDANT'S ATTORNEY Philip Friedman & Robert Leight
TRIAL DATE (S) October 22, 2008-November XX, 2008					COURT REPORTER Julie Kienzle	COURTROOM DEPUTY
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES	
<b>GW1</b>	****	<b>10.22.08</b>	*****	*****	<b>Robert W. Shields, Jr., M.D.</b>	
53			✓	✓	5.13.02 Letter Report from Dr. Shields to Dr. DeMatties	
<b>GW2</b>	****	*****	*****	*****	<b>Ron Habursky, retired Litigation Specialist, Erie Insurance</b>	
2			✓	✓	8.20.02 Erie Insurance File Note	
3			✓	✓	9.12.02 Erie Insurance File Note	
4			✓	✓	9.19.02 Erie Insurance File Note	
5			✓	✓	9.17.02 Erie Insurance File Note	
6			✓	✓	9.23.02 Erie Insurance File Note	
7			✓	✓	10.01.02 Erie Insurance File Note	
8			✓	✓	10.31.02 Erie Insurance File Note	
9			✓	✓	11.05.02 Erie Insurance File Note	
10			✓	✓	11.20.02 Erie Insurance File Note	
11			✓	✓	11.20.02 Erie Insurance File Note	
12			✓	✓	11.20.02 Erie Insurance File Note	
13			✓	✓	11.21.02 Erie Insurance File Note	
14			✓	✓	11.26.02 Erie Insurance File Note	
15			✓	✓	9.17.02 Erie Insurance File Note	
16			✓	✓	9.20.02 Erie Insurance File Note	
17			✓	✓	11.15.02 Erie Insurance File Note	
18			✓	✓	Erie Insurance Auto Policy	
20			✓	✓	11.25.02 Erie Insurance Settlement Check to M. Joyce for \$390,000	
1A			✓	✓	8.10.01 M. Joyce's Narrative Statement of Damages	

\* Include a notation as to the location of any exhibit not held with the case file or not available because of size.

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	K	10.23.08	✓	✓	Erie Insurance File , K136 9.17.01 Erie Insurance File Note	
	K133		✓	✓	9.27.01 Erie Insurance File Note	
	K129		✓	✓	Erie Insurance File Note	
	K117		✓	✓	Erie Insurance File Note	
	K86		✓	✓	Erie Insurance File Note	
18A			✓	✓	Medical Report of Dr. Lyons	
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<b>GW3</b>	<b>****</b>		<b>*****</b>	<b>*****</b>	<b>Shelane Buehler, Architect</b>	
33			✓	✓	Notre Dame Football Tickets	
34			✓	✓	Old Memorial Golf Score Card	
35			✓	✓	Bay Hill Golf Score	
36			✓	✓	7.18.02 Letter from Joyce to Buehler	
37			✓	✓	8.21.02 10:40 a.m. email from Joyce to Buelher	
38			✓	✓	8.21.02 11:24 a.m. email from Buelher to Joyce	
39			✓	✓	8.21.02 1:47 p.m. email Joyce to Buehler	
40			✓	✓	8.21.02 Letter from Joyce to Buelher	
41			✓	✓	8.23.02 email Buehler to Joyce	
42			✓	✓	Select Mortgage, Inc. Refinancing Statement for Joint Properties	
43			✓	✓	Buehler's handwritten notes of money owed to her from Joyce	
44			✓	✓	9.22.02 Letter from Dr. Thomas to Buehler	
45			✓	✓	Numerous email communications between Joyce and Buehler	
45B			✓	<b>NO</b>	10.21.02 email Buehler to Joyce	
45W			✓	✓	7.28.03 emails between Joyce & Buehler	
45X			✓	✓	7.29.03 email Joyce to Buehler	
46			✓	✓	10.25.02 Card from Joyce to Buehler	
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47		<b>10.23.08</b>	✓	✓	Buehler's Credit Card Statements	
	V1		✓	✓	Poster of Damaged Diamond Engagement Ring	
	AA		✓	✓	8.31.02 Check from Joyce to Buehler \$39,000	
	Y		✓	✓	Buehler Handwritten Note on Superior Court' Judge's Chambers Stationary	
<b>GW4</b>	****		*****	*****	<b>Cindy Joyce</b>	
48A			✓	✓	Joyce family Photograph	
48B			✓	✓	Joyce family Photograph	
48C			✓	✓	Joyce family Photograph	
<b>GW5</b>	****	<b>10.28.08</b>	*****	*****	<b>Alan Novak</b>	
<b>GW6</b>	****		*****	*****	<b>Kevin Poor, Flight Instructor</b>	
55F			✓	✓	4.10.02 Written Private Pilot Test Results	
64			✓	✓	4.02-9.02 Kevin Pool's Log Book	
55G			✓	✓	7.5.04 Written Test Result for Instrumentation Rating	
<b>GW7</b>	****		*****	*****	<b>Frank Tursi, M.D.</b>	
63			✓	✓	Blank Application for Medical Certificate/ Pilot	
57			✓	✓	Additional Instructions for Applicant's medical Certification	
58			✓	✓	4.8.2002 Dr. Tursi's Filled Out FAA Medical Form for Joyce	
62			✓	✓	04.27.2004 FAA Form (Joyce)	
60			✓	✓	4.20.2006 FAA Medical Clearance Form (Joyce)	
61			✓	✓	4.2006 Airmen Exam Summary	
59			✓	✓	10.31.89 FAA Medical Exam Form	
	BB		✓	✓	Photograph from Brochure of a Cessna 172	
<b>GW8</b>	****		*****	*****	<b>Martin Haski, FAA Pilot Examiner</b>	
55A-E			✓	✓	Mr. Haski's Forms for Pilot Applicant's	
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	CC	10.28.08	✓	✓	Photograph of Interior of Airplane	
	EE		✓	✓	Photograph of Interior of Airplane	
<b>GW9</b>	****		*****	*****	<b>Amber Cooper, via deposition</b>	
1B			✓	✓	Videotape Deposition of Amber Cooper	
1			✓	✓	Diagram of intersection where accident occurred	
<b>GW10</b>	*****	10.29.08	*****	*****	<b>Emeline Ahrens, State Farm Claims Agent</b>	
23			✓	✓	8.25.01 Letter from State Farm to Joyce	
26			✓	✓	8.23.01 State Farm Investigation Summary	
24			✓	✓	9.4.01 State farm Closing Report	
25			✓	✓	6.11.02 Letter from Joyce to State farm	
<b>GW11</b>	*****		*****	*****	<b>Steven Lesko</b>	
<b>GW12</b>	*****		*****	*****	<b>Nick Konzel</b>	
49			✓	✓	2 Rent Checks from Joyce to Landlord at Office Building Oct-Nov	
51B			✓	✓	Photograph of Office Space 3250 West Lake Road	
51C			✓	✓	Photograph of Office Space 3250 West Lake Road	
51D			✓	✓	Photograph of Office Space 3250 West Lake Road	
51E			✓	✓	Photograph of Office Space 3250 West Lake Road	
	FF				Rent Checks from Joyce to Landlord at Office Building	
<b>GW13</b>	*****		*****	*****	<b>Janice Lee Kline</b>	
65			✓	✓	Photograph from dock - before going out for scuba diving	
66			✓	✓	Photograph from dock - coming back from scuba diving	
67			✓	✓	Photograph on dock	
68			✓	✓	Photograph on dock	
69			✓	✓	Photograph in water	
<b>GW14</b>	*****		*****	*****	<b>Delight Stevens</b>	
151			✓	✓	2002 Tru-Green Chem-Lawn Attendee List	
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PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS AND WITNESSES
<b>GW15</b>	****	<b>10.29.08</b>	*****	*****	<b>William Burt, State Farm Claim Representative</b>
28			√	√	7.9.02 Letter from Joyce to State Farm
29			√	√	7.29.02 Letter from Joyce to State Farm
32			√	√	10.05.01 Reimbursement Payment to Erie Insurance for vehicle damage
31			√	√	9.3.02 \$50,000 Settlement Payment to Joyce from State Farm
	J		√	√	State Farm Insurance File on Joyce's Claim
<b>GW16</b>	****	<b>10.30.08</b>	*****	*****	<b>Daniel Aerni, Consulting Engineer</b>
19			√	√	Photographs of Joyce's vehicle
144			√	√	7.17.2007 Expert report of Daniel Aerni
146A			√	√	Photograph of Volvo, pre-impact
146B			√	√	Photograph of Volvo after barrier impact test
146C			√	√	Photograph of Volvo, different view. after barrier impact test
146D			√	√	Photograph of Toyota Matrix, pre-impact
146E			√	√	Photograph of Toyota Matrix after barrier impact test
146F			√	√	Photograph of Mitsubishi Lancer, pre-impact
146G			√	√	Photograph of Mitsubishi Lancer, after barrier impact test
146H			√	√	Photograph of Mitsubishi Lancer, different view, after barrier impact test
144A			√	√	11.06.2006 FBI Report GJ Testimony, George Lyons
144B			√	√	12.11.2006 FBI Report of Interview, George Lyons
<b>GW17</b>	****		*****	*****	<b>James DeMatteis, M.D.</b>
52A			√	√	EMG Report
52			√	√	Dr. DeMatteis' Medical Records
	B		√	√	Dr. DeMatteis' Medical Records
<b>GW18</b>	****		*****	*****	<b>Sheryl Winschel</b>
	R1		√	√	Photograph of Joyce's surgical incision
	R2		√	√	Photograph of Joyce's surgical incision healing's surgical incision

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PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS AND WITNESSES
	R3		✓	✓	Photograph of Joyce in post-surgical harness
<b>GW19</b>	<b>****</b>	<b>11.03.08</b>	<b>*****</b>	<b>*****</b>	<b>Matt El-Kadi, M.D., Neurosurgeon</b>
54			✓	✓	10.24.20002 Consultation Report
<b>GW20</b>	<b>****</b>		<b>*****</b>	<b>*****</b>	<b>Ted Miller, Lawyer for Erie Insurance</b>
21			✓	✓	8.24.02 Letter from Joyce to Ted Miller enclosing prior Letter to Erie Insurance
22			✓	✓	8.28.02 Memo from Ted Miller to Jan Van Gorder
<b>GW21</b>	<b>****</b>		<b>*****</b>	<b>*****</b>	<b>Kelly Smith, FBI Special Agent</b>
70			✓	✓	Certificate of Authenticity re North Coast Flight School
71			✓	✓	North Coast Flight School Invoices
72			✓	✓	North Coast Flight School Records
72A			✓	✓	Agent Smith's Summary of 2002 North Coast Flight School Records
56A			✓	✓	Agent Smith's Summary of Kevin Poor's Flight Records
75			✓	✓	Certificate of Authenticity re Professional Ass'n of Diving Instructors
76			✓	✓	2001 PADI Instructor Membership Renewal
77			✓	✓	2002 PADI Instructor Membership Renewal
78			✓	✓	2003 PADI Instructor Membership Renewal
73			✓	✓	Affidavit of Authenticity of Citibank
74			✓	✓	3 Citibank credit card statements of M. Joyce
83			✓	✓	Certificate of Authenticity of Erie County Prothonotary's Office
84			✓	✓	Court Document of Erie County Prothonotary's Office with Affidavits
85			✓	✓	Certificate of Authenticity for Breezes Resort in Jamaica
86			✓	✓	Records from Breezes Resort in Jamaica
100			✓	✓	Certificate of Authenticity of Lake Shore Country Club
100A			✓	✓	Map of Lake Shore Country Club
102			✓	✓	Lake Shore Country Club Charge Slips & Billing Statements
98			✓	✓	Certificate of Authenticity Western PA Golf Association
99			✓	✓	Joyce's submitted golf scores 2001 & 2002

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87		<b>11.03.08</b>	✓	✓	Certificate of Authenticity TMS Limited
88			✓	✓	TMS Reservation for BonAire
89			✓	✓	Certificate of Authenticity Plaza Resort/Toucan Diving
90			✓	✓	Plaza Resort/Toucan Diving Liability Release for Diving and Dive Log Sheet
91			✓	✓	Certificate of Authenticity Belmar
92			✓	✓	Belmar hotel records
93			✓	✓	Certificate of Authenticity Bonaire Partners
94			✓	✓	Bonaire Partners Records (Lodging, emails, invoice)
95			✓	✓	Certificate of Authenticity Nautilus
96			✓	✓	Nautilus Membership Application of Joyce
97			✓	✓	Nautilus Log in Sheets
132			✓	✓	Certificate of Authenticity Discover Financial Services
133			✓	✓	Discover Credit Card Statements of Joyce
79			✓	✓	Certificate of Authenticity Notre Dame Office of Registrar
80			✓	✓	Notre Dame Records re student Robert Joyce
81			✓	✓	Certificate of Authenticity Student Accounts Notre Dame
82			✓	✓	Notre Dame Student Account of Robert Joyce
150			✓	✓	Photographs of Cessna Airplane, New Castle Airport
<b>GW22</b>	<b>****</b>		<b>*****</b>	<b>*****</b>	<b>Brian Dalton. M.D., Neurosurgeon</b>
152			✓	✓	Dr. Dalton's Consultation Report
<b>GW23</b>	<b>****</b>	<b>11.04.08</b>	<b>*****</b>	<b>*****</b>	<b>Scot Curtis, IRS Special Agent</b>
160			✓	✓	Report of Border Crossings
103			✓	✓	Certificate of Authority Harley Davidson
105			✓	✓	Certificate of Authenticity
113			✓	✓	Certificate of Authenticity Dahlkemper's Jewelry
117			✓	✓	Certificate of Authenticity Sontag TV
121			✓	✓	Certificate of Authenticity Fiesta Pools and Spas

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125		<b>11.04.08</b>	✓	✓	Certificate of Authenticity Colucci Tile & Marble

129			✓	✓	Certificate of Authenticity
134			✓	✓	Certificate of Authenticity Select Settlement Inc
136			✓	✓	Affidavit of Business Records National City Bank
140			✓	✓	Declaration of Business Records TD Ameritrade
137A			✓	✓	National City Bank Account Statements of Joyce
137			✓	✓	National City Bank Statement
138A			✓	✓	National City Bank Statement
138			✓	✓	National City Bank Statement
139			✓	✓	TD Waterhouse Brokerage Account Statement
142			✓	✓	TD Waterhouse Brokerage Account Statement
135			✓	✓	HUD 1 Settlement Statement re purchase of property 3800 Zimmerly Road
149			✓	✓	Photograph of Residence at 3800 Zimmerly Road
104			✓	✓	Liberty Harley Davidson Invoice for Purchase of motorcycle
130			✓	✓	Dunkirk Aviation Records regarding purchase of Cessna airplane
131			✓	✓	Check #123 Made out to Dunkirk Aviation \$27,500
143			✓	✓	TD Waterhouse Brokerage Statement
141			✓	✓	TD Waterhouse Account Application
106			✓	✓	Asbury House Limited Furniture receipt
107			✓	✓	Four TD Waterhouse Checks made out to Asbury House
108			✓	✓	TD Waterhouse Brokerage Statement
108A			✓	✓	TD Waterhouse Brokerage Statement
114			✓	✓	Dahlkemper's Records showing purchase of engagement ring & diamond bracelet
115			✓	✓	National City Check \$10,000
116			✓	✓	TD Waterhouse Brokerage Statement
118			✓	✓	Sontag TV invoice for Home Theater System
119			✓	✓	TD Waterhouse Check Sontag TV

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120		11.04.08	✓	✓	TD Waterhouse Brokerage Statement
122			✓	✓	Fiesta Pools & Spas Invoice



123			✓	✓	TD Waterhouse Checks to Fiesta Pools & Spas
124			✓	✓	TD Waterhouse Brokerage Statements
126			✓	✓	Colucci Tile & Marble Contract with M. Joyce
127			✓	✓	TD Waterhouse checks to Colucci Tile
128			✓	✓	TD Waterhouse Brokerage Statements
128A			✓	✓	Agent's TD Waterhouse Deposit Summary
128B			✓	✓	Agent's TD Waterhouse Summary of Transactions
109			✓	✓	Certificate of Authenticity Dr. Winston Chu
110			✓	✓	Aesthetic Reconstruction Surgery Records
111			✓	✓	TD Waterhouse Check #112 Check to Dr Winston Chu
112			✓	✓	TD Waterhouse Brokerage Statement
128C			✓	✓	Agent's Summary of TD Waterhouse Checks
	HH		✓	✓	Joyce's Original Check #4297 to S. Beuhler for \$39,000
****	DW1		*****	*****	<b>Krista Ott, attorney</b>
		V1	✓	✓	Photograph of diamond engagement ring
****	DW2		*****	*****	<b>Phyllis Ferguson, legal secretary</b>
****	DW3	11.05.08	*****	*****	<b>Joseph Martin Thomas, M.D.</b>
	I		✓	✓	Medical Records of Dr. Thomas
	II		✓	✓	X-Ray Film
	JJ		✓	✓	X-Ray Film
	KK		✓	✓	X-Ray Film
	LL		✓	✓	X-Ray Film
	MM		✓	✓	X-Ray film
	OO		✓	✓	Epidural Needle and catheter
170			✓	✓	Handwritten Note of Dr. Thomas

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****	DW3	11.05.08	✓	*****	<b>Terry Kaminski, Legal Secretary</b>
****	DW4		✓	*****	<b>Susan Merritt</b>
	C		✓	✓	Dental Records of Michael Joyce from Thomas Galla, D.M.D.

****	DW5		√	*****	<b>Mary Nelson, Physical Therapist</b>
	E		√	√	Physical Therapy Records
175			√	√	Progress Report Letter to Dr. El-Kadi from Mary Nelson
179			√	√	12.20.01 File Note from Mary Nelson
176			√	√	12.31.01 File Note from Mary Nelson
****	****	<b>11.06.08</b>	*****√	*****	<b>Chimba Mkandawire, Biomechanical Engineer</b>
	X1		√	√	Anatomy Diagram Cervical Spine
	X2		√	√	Anatomy Diagram Extended Cervical Spine
	X3		√	√	Anatomy Diagram Joyce's X-Ray
	X4		√	√	Anatomy Diagram Neural Foramen
	X5		√	√	Anatomy Diagram Normal Cervical Spine
	X6		√	√	Anatomy Diagram Normal Spine v Joyce's Cervical Spine
	X7		√	√	Video Demonstration of Body in Car Being struck from Behind
****	DW6		√	*****	<b>Timothy Michael Joyce</b>
	PP		√	√	Honorary Submarine Qualification Certificate
****	DW7		*****	*****	<b>Robert Joyce</b>
****	DW8		*****	*****	<b>Kristen Joyce</b>
****	DW9		*****	*****	<b>John Charles Jageman, M.D.</b>
180			√	√	07.17.2003 Progress Note, Dr. Jageman
	GG		√	√	Signed Release by Michael Joyce 4.2.2007 for Jageman's Records
	F		√	√	Medical Records of Dr. Jageman
****	DW10		*****	*****	<b>Joanne Joyce</b>
84			√		Joanne (Donahue) Joyce & Debra Mizikowski Affidavits

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****	DW11	11.10.08	*****	*****	<b>Rimas Micknaitas</b>	
190			✓	✓	Micknaitis' Personal Flight Log Book (part 1)	
191			✓	✓	Micknaitis' Personal Flight Log Book (part 2)	
****	DW12		*****	*****	<b>PA Supreme Court Justice Seamus McCaffrey</b>	
****	DW13		*****	*****	<b>Carl Buchholz, attorney</b>	
	QQ		✓	✓	Buchholz' law firm personal expense report 2002	
****	DW14		*****	*****	<b>PA Court of Common Pleas Judge Michael Dunlavy</b>	
****	DW15		*****	*****	<b>PA Superior Court President Judge Kate Ford Elliott</b>	
****	DW16		*****	*****	<b>PA Superior Court Judge Richard Klein</b>	
****	DW17		*****	*****	<b>PA Superior Court Judge John Musmanno</b>	
	RR		✓	✓	Judge Musmanno's List of Golf dates with Michael Joyce	
****	DW18		*****	*****	<b>Jeffrey Lucht, Attorney</b>	
	SS		✓	✓	Inflatable Neck Brace	
****	DW19	11.12.08	*****	*****	<b>William Difenbock, M.D.</b>	
****	DW20		*****	*****	<b>Terry Teasdale, Western PA Golf Association</b>	
	VV		✓	✓	Joyce's handicap records	
	WW		✓	✓	Beuhler's handicap records	
	XX		✓	✓	Rules of Golf	
	YY		✓	✓	Rules of Golf	
****	DW21		*****	*****	<b>Norman David Clark</b>	
	GW24		*****	*****	<b>Wellington (Wellie) Yapple, IRS Special Agent, rebuttal witness</b>	
	D		✓	✓	Gallaher physical therapy records	
	UU		✓	✓	Lake Shore Country Club records	
200			✓	✓	Memo signed by Agent	
200.1			✓	✓	notes accompanying Agent report	
****	GW		*****	*****	<b>recalled on rebuttal FBI Special Agent Kelly Smith</b>	

[illegible]